

**Senate File 214 - Introduced**

SENATE FILE 214

BY SODDERS

**A BILL FOR**

1 An Act relating to the reimbursement of certain attorney fees  
2 and court costs of peace officers.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   815.15   Peace officer attorney fees  
2 and costs — reimbursement.

3     1. The employing agency of a peace officer shall reimburse  
4 the reasonable attorney fees and necessary costs incurred by  
5 the officer as a defendant in the defense of a criminal action  
6 commenced against the officer in any court if the criminal  
7 action arose out of the performance of the peace officer's  
8 official duties and if any of the following occur:

9     a. The criminal action is dismissed with prejudice.

10    b. The peace officer is found to be not guilty. A finding  
11 of not guilty shall not include the entry of a plea of guilty or  
12 nolo contendere or a finding of guilt by a court or jury to any  
13 offense charged or to any lesser or included offense that is  
14 substantially related to the offense charged.

15    2. For the purposes of this section:

16    a. "*Peace officer*" means the same as defined in section  
17 801.4.

18    b. "*Performance of the peace officer's official duties*"  
19 means the peace officer's actions were not acts of omission  
20 or commission which constituted a material departure from the  
21 employing agency's written policies and procedures and occurred  
22 under one or more of the following circumstances:

23     (1) In response to what the peace officer reasonably  
24 believed was an emergency.

25     (2) The peace officer reasonably believed that the  
26 officer's actions were necessary to protect the officer or  
27 others from imminent death or bodily harm.

28     (3) In the course of the peace officer's fresh pursuit,  
29 apprehension, or attempted apprehension of a suspect whom the  
30 officer reasonably believed had perpetrated, or attempted to  
31 perpetrate, a forcible felony as defined in section 702.11.

32    3. If reimbursement is required under subsection 1, the  
33 amount of reasonable attorney fees and necessary costs shall be  
34 determined as follows:

35    a. The peace officer shall submit an application for

1 reimbursement of reasonable attorney fees and necessary  
2 costs to the employing agency no later than thirty days after  
3 conclusion of the criminal action. Within thirty days after  
4 receiving the application, the employing agency and the peace  
5 officer shall agree on reasonable attorney fees and necessary  
6 costs to be reimbursed. The peace officer may only apply for  
7 reasonable attorney fees and necessary costs incurred in the  
8 actual defense of the prosecution of criminal charges, and the  
9 officer is not entitled to seek or collect attorney fees and  
10 necessary costs related to efforts to collect attorney fees and  
11 necessary costs under this section.

12     *b.* The application for reasonable attorney fees and  
13 necessary costs must include a statement from an attorney or  
14 expert witness representing or appearing in behalf of the peace  
15 officer itemizing the actual time expended and the rate at  
16 which fees and other expenses were computed.

17     *c.* If the peace officer and the employing agency do not  
18 reach an agreement or if reimbursement is not paid within  
19 thirty days of reaching an agreement, the officer requesting  
20 reimbursement may submit the application to the court having  
21 jurisdiction over the criminal action within thirty days after  
22 the conclusion of the criminal action, failure to reach an  
23 agreement, or failure to timely reimburse the fees and costs,  
24 whichever is later. The court shall retain jurisdiction of the  
25 matter in order to determine entitlement to reimbursement and  
26 the amount of reimbursement to be paid.

27     *d.* If the peace officer files an application for reasonable  
28 attorney fees and necessary costs with the court, the employing  
29 agency shall have the right to respond to the application.  
30 The court shall make its determination as to entitlement and  
31 amount of reasonable attorney fees and necessary costs based  
32 on prevailing market rates in the appropriate market area for  
33 defense of similar actions, as well as other relevant factors.

34     Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
35 3, shall not apply to this Act.

## EXPLANATION

1  
2 This bill enacts new Code section 815.15, which requires an  
3 employing agency of a peace officer, as defined in the bill,  
4 to reimburse the reasonable attorney fees and necessary costs  
5 incurred by the officer as a defendant in the defense of a  
6 criminal action commenced against the officer if the criminal  
7 action arose out of the performance of the peace officer's  
8 official duties and either the criminal action is dismissed  
9 with prejudice or the peace officer is found to be not guilty.  
10 The bill defines "performance of the peace officer's official  
11 duties".

12 If reimbursement is required under the bill, the peace  
13 officer must submit an application for reimbursement no later  
14 than 30 days after conclusion of the criminal action. Within  
15 30 days after receiving the application, the employing agency  
16 and the peace officer shall agree on reasonable attorney fees  
17 and necessary costs to be reimbursed. If the peace officer  
18 and the employing agency do not reach an agreement within that  
19 time or if reimbursement is not paid within 30 days of reaching  
20 an agreement, the officer requesting reimbursement of attorney  
21 fees and necessary costs may submit the application to the  
22 court having jurisdiction over the criminal action. The court  
23 then makes its determination as to entitlement and amount of  
24 reasonable attorney fees and necessary costs to be reimbursed  
25 based on prevailing market rates in the appropriate market  
26 area for defense of similar actions, as well as other relevant  
27 factors.

28 The bill may include a state mandate as defined in Code  
29 section 25B.3. The bill makes inapplicable Code section 25B.2,  
30 subsection 3, which would relieve a political subdivision from  
31 complying with a state mandate if funding for the cost of  
32 the state mandate is not provided or specified. Therefore,  
33 political subdivisions are required to comply with any state  
34 mandate included in the bill.